

In the Court of Appeals of the State of Alaska

Peter Nick, Jr.,

Appellant,

v.

State of Alaska,

Appellee.

Court of Appeals No. **A-13427**

Order

Date of Order: **November 18, 2021**

Trial Court Case No. **4BE-15-00234CI**

Attorney Marilyn J. Kamm represents Peter Nick Jr. in this appeal. Ms. Kamm recently filed Nick's reply brief, and in that brief she conceded — as the State had pointed out in its brief — that the issue before this Court is not whether there was sufficient evidence to support Nick's claims that his trial attorney was ineffective, but whether the trial court's fact finding was clearly erroneous. Because Ms. Kamm did not address the proper issue in her opening brief, she has addressed the issue in her reply brief. And because, as a general rule, a party may not raise new issues or arguments in a reply brief, Ms. Kamm asks this Court to accept her reply as a supplemental brief, and to allow the State the opportunity to file a sur-reply.

IT IS ORDERED:


1. In the interests of justice, the Court will treat Ms. Kamm's request as a motion that this Court accept her supplemental brief. The State shall file a response to Ms. Kamm's motion, or a notice that it will not respond, on or before **November 29, 2021**.

2. The reply brief shall be lodged pending this matter.

Entered under the authority of Chief Judge Allard.

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Clerk of the Appellate Courts



Kaitlin D'Eimon, Deputy Clerk

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